

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of State Police
(DLS Control No. 16-046)**

Overview and Legal and Fiscal Impact

These regulations update the Department of State Police's requirements related to requests for public records under the Public Information Act.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of State Police:

Office of the Secretary: Public Information Requests:

COMAR 29.01.02.01, .02, .11, and .16

Legal Analysis

Background

Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. A custodian of a public record must designate types of public records that are to be made available to any applicant immediately on request and must maintain a current list of the types of public records that have been so designated.

Generally, a custodian of a public record must permit inspection of the record at a reasonable time. A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, specified information about an individual maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, certain recorded and surveillance images, and captured plate data collected by automatic license plate reader systems. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information, trade secrets, certain personal information about public employees, information about the security of an information system, and licensing records.

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. Permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

Summary of Regulations

The regulations update the definition of “sociological information” to include date of birth and social security number and clarify that requests for sociological information from the department shall be denied. The regulations also update the requirements for appealing a denial of inspection and failure to provide a copy of a public to reflect current law. Internal citations are also updated to reflect the transfer of the Public Information Act from the State Government Article to the General Provisions Article.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 2-205 of the Public Safety Article and §§ 4-201, 4-205, and 4-206 of the General Provisions Article as statutory authority for the regulations. More specifically, § 2-205 of the Public Safety Article empowers the Secretary of State Police with general rulemaking authority.

Section 4-201(b) of the General Provisions Article requires each official custodian to adopt reasonable rules or regulations to govern the production and inspection of a public record. Section 4-206 of the General Provisions Article governs the requirements of a custodian for providing copies or other reproductions of a public record to an authorized applicant. Although not cited by the department, § 4-330 of the General Provisions Article requires a custodian to deny inspection of the part of a public record that contains sociological information if the custodian has adopted rules or regulations defining sociological information in accordance with the rules or regulations. Section 4-362 of the General Provisions Article provides for filing a complaint or appeal with the circuit court to review a denial of inspection. As amended by these regulations, COMAR 29.01.02.11 specifically cites § 4-362.

The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations can be implemented with existing resources; therefore, there is no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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